

CMP.No.9535 of 2020
in CMA.SR.No.55501 of 2020

R.SUBBIAH, J.
and
C.SARAVANAN, J.

This petition has been filed to condone the delay of 246 days in filing the present appeal.

2. The petitioner herein has filed the present appeal as against the order and decree dated 19.09.2019 passed by the II Additional Family Court, Chennai granting ex-parte decree of divorce in O.P.No.2851 of 2018.

3. In the affidavit, it has been stated that the petitioner is suffering from various health problems and severe financial constraints. Hence, she was unable to contest the divorce proceedings at Chennai and filed transfer petition before the Supreme Court of India on 16.09.2019. On the very same day, the divorce petition was listed before the Family Court, Chennai and the learned counsel for the petitioner entered appearance before the Family Court, Chennai and informed about the transfer petitioner filed before the Supreme Court. However, the Family Court refused to adjourn the matter and the petitioner / wife was set ex-parte in the divorce proceedings. Thereafter, respondent's evidence was recorded and the divorce petition was posted on 18.09.2019 "for

orders". At around 1.30 p.m. on 16.09.2019, the learned Additional Judge of Family Court was once again apprised by petitioner's counsel that the Transfer Petition was listed before the Supreme Court on 19.09.2019 and sought for adjournment after 19.09.2019. But, the learned Additional Judge refused to entertain the prayer.

4. On 19.09.2019, the transfer petition was listed as Item No.3 before the Supreme Court and at 10.40 am, notice was issued on the transfer petition and a stay was granted in the proceedings in OP.No.2851 of 2018. The same was immediately communicated by the petitioner's lawyer at New Delhi to the petitioner's lawyer at Chennai. Thereafter, he prepared a memo and filed the same before the Family Court. However, the learned Additional Judge, Family Court refused to take the same into consideration and granted ex-parte divorce.

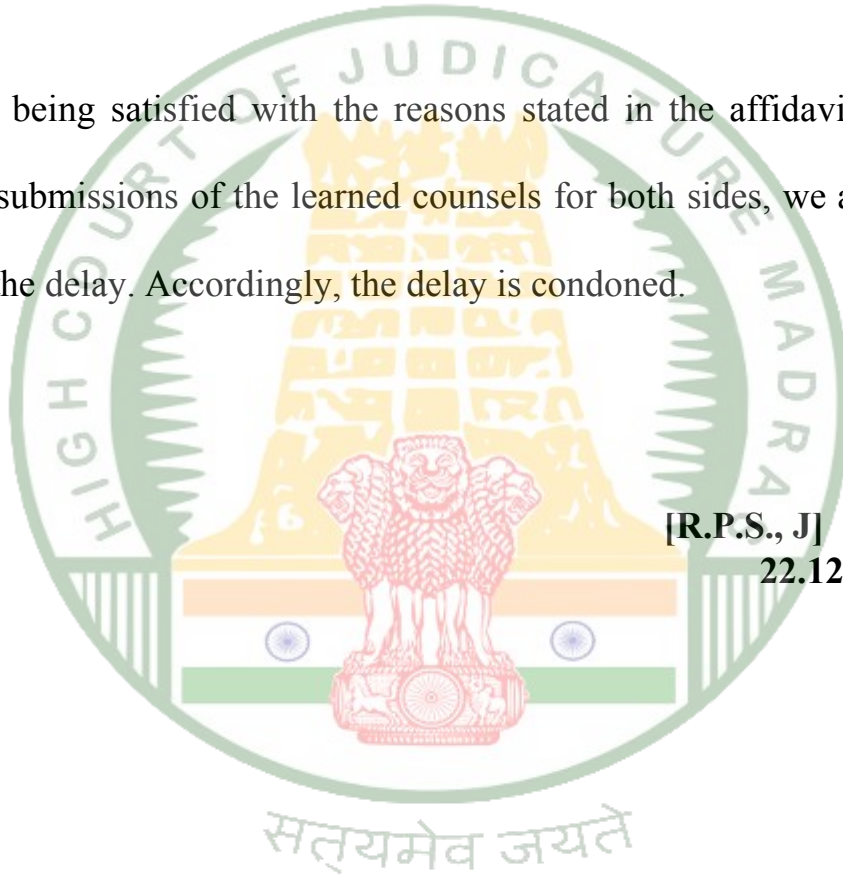
5. The learned counsel for the petitioner submitted that due to COVID-19 pandemic and the resultant restriction in operation of lawyers' chambers, postal services etc., contributed to an inevitable delay in the coordination and preparation of the memorandum of grounds of appeal and thus, the unavoidable delay had been caused.

6. The learned counsel for the respondent / husband vehemently opposed the above submissions and stated that there is no health problem or financial constraints to the petitioner as stated in the affidavit. However, he has stated that he has no objection in condoning the delay.

7. On being satisfied with the reasons stated in the affidavit and upon hearing the submissions of the learned counsels for both sides, we are inclined to condone the delay. Accordingly, the delay is condoned.

pvs

[R.P.S., J] [C.S.N., J]
22.12.2020

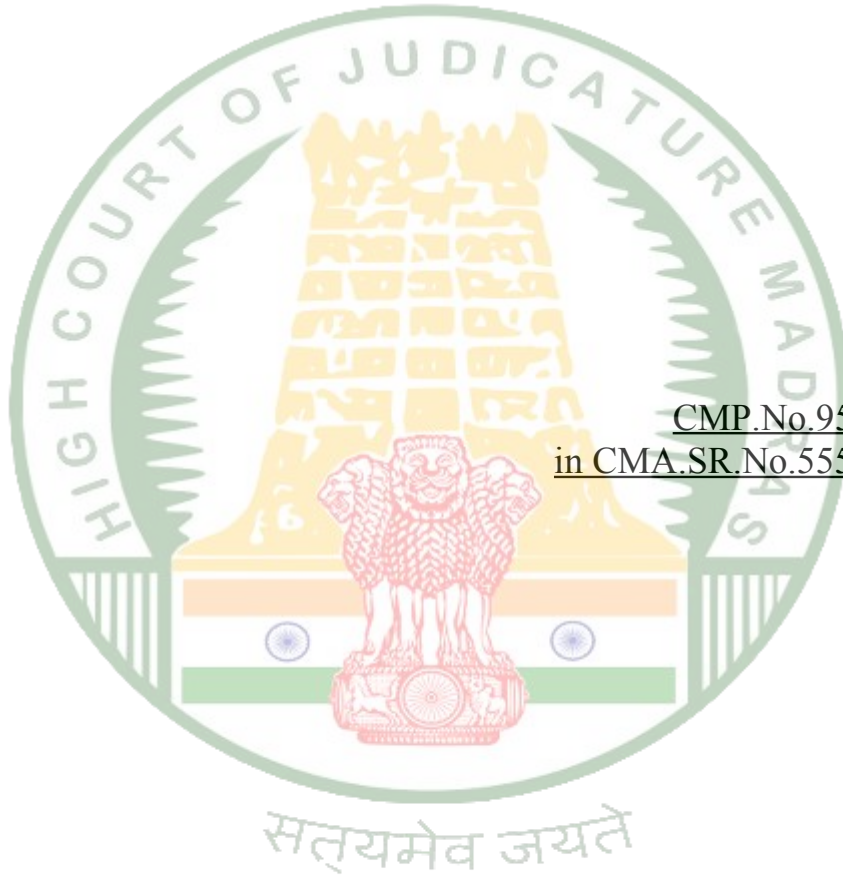


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